2: Underhill E-5 (1931-1935)1939 NU28 Papago NU28

681 Whipping was ordered by the Spanish appointed governor who held his court with some little ceremony. On receiving a complaint, he sent his Leg out to bring in the offender whom he received in front of his house, generally with some elders present as advisors. If the offense was acknowledged, he announced the penalty immediately and the Leg carried it out. But if the plea was not guilty, he sent the Leg for witnesses and asked each of them, "What do you know about this?" He made up his mind after hearing their stories and consulting the elders. However, the Papago are not a people given to formality and the following instances, remembered by the daughter of the governor of Kuitatk reflect a neighborliness not perhaps contemplated by the Laws of the Kingdoms of the Indies.

684 Once a wife came, very angry, to complain about her husband. "He beats me," she said, "but I love him." My father sent his Leg for the husband. He said to that man: "Do you beat her?" he said. "Yes," said that man. "I beat her because I am jealous. I think she looks at other men. But I want to keep her." "Then," said the woman, "let him pay me with his body. Let him be beaten too." My father thought about that and he said, "Very well. How many stripes?" "Fifty." "Do you want to kill him?" said my father. "Twenty." So the man took off his shirt and knelt down and the Leg beat him.

A man came with his daughter. "She went off into the arroyo with a man at the last girl's puberty dance. I want her beaten." "How many stripes?" "Twenty." "Fifteen," said the chief. "She is young."

Then a husband and wife came with their girl who had just been married. "She will not sleep with the man to whom we gave her." That man was an old man but he was all right. My father (the chief) knew that. He knew the girl was just scared. He said, "Well, we'll beat her and see how she feels." So they tied the girl's hands to the post. She began to cry. She said, "I'll go with him." So she went off with her husband and my father said to the parents," If she doesn't behave, bring her back." (26)

178 692 The governor's whipping post lasted on during the early years of American authority in Papagueria, before the reservations were organized. With the latter event came the appointment of Indian judges, Indian policemen paid by the government and a reservation jail. These deal with minor offenses, principal of which is the old one first turned over to the *alcalde*—drunkenness. This neurosis of a transition stage is at present far more frequent than offenses against property or morals. However, the Indians show a tendency

2: Underhill E-5 (1931-1935)1939 NU28 Papago NU28

to bring to the court their family difficulties as they brought them to the governor under the old regime. Problems of rape and illegitimacy, which did not figure under the system of polygyny, are beginning to appear. These and other major offenses are dealt with by the Federal courts.

Under the Indian Reorganization Act, the Indian courts will have jurisdiction over a definite number of offenses punishable under American law. The transition to a code of morals consonant with that of the individualistic and property conscious society around them should proceed rapidly and the rate and manner of adaptation in the different departments of morals will furnish an illuminating study.

4: Joseph et al D, E-5 (1942-1943) 1949
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646 be rushed or pushed into action. If these qualities are respected by government representatives, they are more likely to gain the support and active participation of the council in their common responsibility—the welfare of the Papago.

THE TRIBAL COURT

671 Off the reservation Indians are subject to state and local law. On their reservations they are subject to federal law in regard to ten major crimes: murder, manslaughter, rape, assault with intent to kill, assault with a dangerous weapon, arson, burglary, larceny, incest, and robbery. All other offenses are dealt with according to the tribal law.[9]

The Papago code of law and order, drawn up by a committee of the tribal council,[10] is in the main a codification of the old laws and customs of the people. However, it includes several white innovations such as the requirement of a marriage license and ceremony and provision for probating estates and appointing guardians.

692 On the Papago reservations law is administered by a tribal court and Indian police. The tribal court is presided over by Indian judges whose appointment by the superintendent must be approved by the tribal council. The constitution provides for three judges in all, but at the time of this study there was only one on the main Reservation and one at San Xavier.

626 As noted in chapter iv, many difficulties which might come to court are
696 settled within the family without recourse to law, or are taken to the village
681 court. Since the Papago are a law-abiding people, not many cases come up for
[674] trial. In one year only 116 were on record, the majority cases of drunkenness. The usual sentence is a number of days in jail. The normal Papago does not like such a sentence, for he does not like to have "people talk," as they do when someone is behind bars. Thus the diffuse sanctions of public opinion are important in maintaining the legal sanctions.

693 Indian judges and police are not in a particularly happy position. Several past incumbents criticized for favoring kinsmen or people of their own religious denomination resigned. At the time of this study, one of the judges nominally a Presbyterian apparently was not accused of partiality.

DISTRICT COUNCILS AND COURTS

631 According to the tribal constitution, the district is the basic unit of govern-
634 ment, with an elected council and a court. Actually, however, as indicated in
657 preceding sections, this white pattern of government has not really taken root

9. Or, in the absence of such a code, according to a code of laws for Indians embodied in U.S. Code, Title 25.

10. Approved 1945.